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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 ARIEL ABITTAN,

12 Plaintiff,

13 v.

14 LILLY CHAO (A/K/A TIFFANY
CHEN, A/K/A YUTING CHEN) et al.,

15 Defendants.
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Case No. 5:20-CV-09340-NC

**DECLARATION OF CONSTANTINE P.
ECONOMIDIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR
VOLUNTARY DISMISSAL WITHOUT
PREJUDICE PURSUANT TO RULE 41(a)**

28 DECLARATION OF CONSTANTINE P.
ECONOMIDIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR VOLUNTARY
DISMISSAL PURSUANT TO RULE 41(a)

CASE No. 5:20-CV-09340-NC

1 I, Constantine P. Economides, declare as follows:

2 1. I am an attorney licensed to practice law in the States of New York, Florida, and
3 Washington D.C., and am admitted to practice before this Court *pro hac vice*. I am a partner with
4 the firm Freedman Normand Friedland LLP, and counsel for Plaintiff Ariel Abittan ("Plaintiff"). I
5 make this declaration based upon my knowledge of the facts stated herein, and if called to testify,
6 I could and would testify competently thereto. I submit this declaration in support of Plaintiff's
7 motion for voluntarily dismissal pursuant to Federal Rule of Civil Procedure 41(a).

8 2. This case is one of multiple cases between the Parties. These cases include:

9 a. *Abittan v. Lilly Chao et al.*, Case No. 5:20-cv-09340-NC, filed in the United
10 States District Court, Northern District of California ("Abittan Case");

11 b. *Chen v. Abittan et al.*, Case No. 5:21-cv-09393, filed in the United States
12 District Court, Northern District of California ("Yuting Chen Case.");

13 c. *Temujin Labs Inc. (Delaware) v. Ariel Abittan, Benjamin Fisch, and Charles*
14 *Lu, and Does 1-10*, inclusive, Santa Clara County Superior, Case No. 20CV372622 ("State
15 Court Case").

16 3. On April 26, 2023, this Court dismissed the Yuting Chen Case with prejudice. *See*
17 Case No. 5:21-cv-09393, ECF No. 92.

18 4. Subsequently, on June 16, 2023, the Parties participated in a state-court ordered
19 global mediation. The goal of the mediation was to resolve all disputes between the Parties,
20 including disputes at the center of this litigation.

21 5. Prior to the mediation, Plaintiff endeavored to streamline the disputes and avoid
22 duplicative discovery, given that the three cases involved overlapping parties, facts, and claims.

23 6. However, the case did not settle, and the Parties' dispute will inevitably proceed in
24 the State Court Case, where Mr. Abittan is a defendant and counterclaim plaintiff.

25 7. Plaintiff's claims in this case have merit, and Plaintiff intends to vigorously pursue
26 those claims. However, Plaintiff believes that he (as well as the other parties) can avoid duplicative
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1 efforts, maximize resources, and preserve judicial resources by dismissing this lawsuit and focusing
2 all claims, defenses, and/or counterclaims in the State Court Litigation.

3 8. Plaintiff has no intention of waiving any claims or arguments asserted in this action
4 and would not dismiss unless doing so is without prejudice and without the imposition of fees and
5 costs.

6 9. If the Court holds that a voluntary dismissal must be with prejudice or other
7 conditions against Plaintiff, Plaintiff intends to continue litigating this action, while making
8 reasonable good faith efforts to avoid needless duplication.

9 10. I am available to provide any additional information the Court may require in
10 conjunction with the requested dismissal without prejudice.

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12 Dated: June 28, 2023

Respectfully Submitted,

13 /s/ Constantine P. Economides

Constantine P. Economides (*pro hac vice*)

14 *Counsel for Plaintiff*
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